

1 and at some point while you were there, you were there when the
2 Special Victims Squad detective arrived as well, do you recall
3 that?

4 A Yes.

5 Q You testified on your direct examination about some of
6 the details that were provided to you by the complaining
7 witness in this case.

8 Did you memorialize them or write them down on any
9 document to help you remember what this witness said to you?

10 A No, I did not write anything down from what the
11 witness told me.

12 Q And how is it that you remember it today over a year
13 after the event?

14 A Just the simple fact of her demeanor, the way she was
15 acting. It's something that you couldn't easily forget.

16 Q Did you review any other officers' paperwork to
17 refresh your recollection in preparation for trial or do you
18 have an independent memory --

19 A Independent.

20 Q -- of her exact words?

21 A Her exact words, her -- not her exact words but the
22 way she was acting.

23 MR. HERLICH: Thank you.

24 THE COURT: Anything else?

25 MS. PARK: No questions.

Joanne Fleming

1 THE COURT: Thank you, officer. You can step
2 down.

3 Your next witness.

4 (Whereupon, the witness exited the courtroom.)

5 MS. PARK: The People call Officer Millicent
6 Semper-Martinez.

7 A COURT OFFICER: Witness entering.

8 (Whereupon, the witness entered the courtroom.)

9 A COURT OFFICER: Remain standing, raise your
10 right hand and face the clerk.

11 M I L L I C E N T S E M P E R - M A R T I N E Z, called as a
12 witness, by and on behalf of the People at the Trial,
13 having been duly sworn or affirmed, testified as follows:

14 THE CLERK: Thank you.

15 A COURT OFFICER: Please be seated.

16 In a loud, clear voice, please state your name,
17 spelling your last name.

18 THE WITNESS: Officer Semper-Martinez.

19 A COURT OFFICER: Spell it out.

20 THE WITNESS: Semper, S-E-M-P-E-R, Martinez,
21 M-A-R-T-I-N-E-Z.

22 A COURT OFFICER: Shield number and present
23 command.

24 THE WITNESS: Shield number 26196 and present
25 command is Latent Print Unit.

Joanne Fleming

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1 THE COURT: Good afternoon, officer.

2 THE WITNESS: Officer.

3 THE COURT: You may inquire.

4 DIRECT EXAMINATION

5 BY MS. PARK:

6 Q Officer, how long have you been with the New York City
7 Police Department?

8 A A little bit over seven and a half years.

9 Q And how long have you been with your current command?
10 I believe you said you were with the Latent Print
11 Unit?

12 A Yes.

13 Q How long have you been there?

14 A Since May of this year.

15 Q And what is a latent print unit?

16 A It's pretty much the -- they examine prints after
17 crimes have been committed.

18 Q Like fingerprints?

19 A Yeah.

20 Q What other commands have you been in?

21 A The Thirty-Second Precinct.

22 Q Tell us about --

23 A The Thirty-Second Precinct, the Twenty-Eighth Precinct
24 and the Bronx D.A. Squad.

25 Q And how long --

Joanne Fleming

1 From when to when were you with the Twenty-Eighth
2 Precinct?

3 A From 2010 till early this year.

4 Q May 2015?

5 A May of 2015.

6 Q I'm going to direct your attention to July 16th of
7 2014. Were you working that day?

8 A Yes.

9 Q What was your shift that day?

10 A Seven o'clock to 3:30 p.m.

11 Q Seven a.m.?

12 A Seven a.m. to three-thirty, yeah.

13 Q And back then in July of 2014, what command were you
14 assigned?

15 A Twenty-Eighth Precinct.

16 Q What was your assignment that day?

17 A Can I check my memo book?

18 Q Would looking at your memo book refresh your
19 recollection?

20 A Yes.

21 Q Okay. After you look at it, just put it down.

22 A Okay.

23 Sector Charlie David.

24 Q So when you say "Sector Charlie David," what does that
25 mean?

Joanne Fleming

1 A Radio patrol. I was assigned to sectors which is
2 Sector Charlie David for that day.

3 Q Is that a particular area of the Twenty-Eighth
4 Precinct?

5 A Yes.

6 Q So you were on regular radio patrol?

7 A Yes.

8 Q Did you have a uniform or were you in plain clothes?

9 A Uniform.

10 Q Did you have a partner with you?

11 A Yes.

12 Q Who was that?

13 A Officer Mateo.

14 Q Were you in a car or were you on foot?

15 A In a car.

16 Q Was it a marked police car?

17 A Yes.

18 Q Or an unmarked car?

19 A Marked.

20 Q And directing your attention to approximately 2:27
21 p.m., did you hear a radio transmission?

22 A Yes.

23 Q And after hearing that transmission, what, if
24 anything, did you do?

25 A We pretty much went to the scene to back up the main

Joanne Fleming

1 sector that was directed there. And after we got there, we
2 were informed that somebody was sexually assaulted, and my
3 sergeant told us to speak to her because she was probably going
4 to feel better with a female and she basically told us
5 everything that happened.

6 Q Okay.

7 Now, you mentioned you were backing up a sector.

8 A Yes.

9 Q When you say "a sector," what does that mean in
10 layman's terms?

11 A Another two officers that were assigned to the job
12 mainly and we went to back up in case they needed help.

13 Q Where did you go?

14 A Ninety-Two St. Nicholas.

15 Q And about how much time passed from when you heard the
16 radio transmission to when you got to Ninety-Two St. Nicholas
17 Avenue?

18 A No more than five minutes.

19 Q And when you mentioned that they requested female
20 officers --

21 A Yes.

22 Q -- is Officer Mateo also a woman?

23 A Yes.

24 Q So when you --

25 Upon hearing that, what, if anything, did you do?

Joanne Fleming

1 A We spoke to the victim.

2 Q Did you go up to the apartment?

3 A Yes.

4 Q Do you remember the apartment that you went to?

5 A No.

6 Q Do you know what floor it was on?

7 A No.

8 Q Can you tell us what happened when you got to the
9 apartment?

10 A We saw the victim. She was very shocked. She was
11 crying. She was in the kitchen. And then we went to the
12 living room and she started telling us what happened.

13 Q What did she look like?

14 A She was a fifteen-year old, short, young lady, dark
15 skin, glasses.

16 Q I'm going to show you People's 12 that's already in
17 evidence. If you can look at the screen that's next to you,
18 T.V. screen.

19 A (Witness complies.)

20 Q Do you recognize People's 12?

21 A Yes.

22 Q And what do you recognize it to be?

23 A The victim.

24 Q And is this the victim that you spoke to on July 16th?

25 A Yes.

Joanne Fleming

1 Q Can you describe her demeanor when you were speaking
2 with her?

3 A She was shaken up. She was crying. Her voice was
4 very low. Basically she was shaking.

5 Q When you say "she was shaking," do you mean
6 physically?

7 A Yes.

8 Q And what did she tell you?

9 A She said that the defendant knocked on the door.

10 Q Did she say the word "defendant?"

11 A No.

12 Q What did she say?

13 A She said Lonnie.

14 And then she said he knocked on the door looking for
15 her brother to go bike riding and she told him he wasn't there.
16 He pretty much let himself in the apartment and asked her if he
17 could have some of the Smoothie she was making. And she was
18 making the Smoothie.

19 I don't know how soon after that, she said he grabbed
20 her. Like, he started hugging her and she said let me go. He
21 said no. He pulled down her underwear and started touching
22 her. She also mentioned he licked her private part and then
23 made her put her mouth on his private parts.

24 Q Did she say anything about pictures?

25 A She said that at the end he took a picture of her

Joanne Fleming

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1 without her panties and said if she ever said anything, he
2 would show that picture.

3 Q And can you describe her demeanor during the whole
4 time she was talking to you?

5 A She was crying. She was talking very low. She was
6 shaking.

7 Q What happened after you and officer --

8 Well, what, if anything, did you do after you spoke
9 with the girl that's in the photograph, People's Exhibit 12?

10 A I remember her -- her mom arrived from work. She
11 pretty much got herself together. And we escorted her down to
12 the ambulance. They got into the ambulance and then the other
13 officers just took over.

14 MS. PARK: I have no further questions.

15 THE COURT: Mr. Herlich.

16 CROSS-EXAMINATION

17 BY MR. HERLICH:

18 Q Officer Semper-Martinez, you indicated what the
19 complaining witness told you when you went into the apartment
20 and spoke with her, correct?

21 A Yes.

22 Q And did you memorialize in writing --

23 Did you write down any notes at the time that this
24 conversation took place to help you remember the substance of
25 the conversation?

Joanne Fleming

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1 A I don't remember writing anything.

2 Q So your memory --

3 Your testimony today is based on your independent
4 memory of that conversation, not on any notes or any notes
5 taken by any other police officer?

6 A Yes.

7 MR. HERLICH: Thank you.

8 THE COURT: Anything else?

9 REDIRECT EXAMINATION

10 BY MS. PARK:

11 Q Officer Semper-Martinez, does this incident stand out
12 in your mind?

13 A It does.

14 Q Why?

15 A Because she's the younger victim I ever had. I never
16 dealt with victims that young in this kind of case.

17 MS. PARK: I have nothing further.

18 THE COURT: Thank you. You may step down.

19 (Whereupon, the witness exited the courtroom.)

20 THE COURT: Next witness, People.

21 MS. PARK: Judge, can we approach?

22 THE COURT: Sure.

23 (Whereupon, the following proceedings took place
24 on the record and outside the presence of the jury:)

25 MS. PARK: Judge, I don't have any more witnesses.

Joanne Fleming

1 THE COURT: Okay.

2 MS. PARK: I didn't anticipate the victim would be
3 so short on cross.

4 THE COURT: Who do you have for tomorrow?

5 MS. PARK: I have the T-Mobile representative.

6 THE COURT: I'm sorry?

7 MS. PARK: T-Mobile representative, the cell site
8 person, two witnesses for the cell site. And then I have
9 another police officer and doctor who examined her at the
10 hospital. I will try to see if I can get more police
11 officers.

12 THE COURT: See if you can.

13 MS. PARK: Yes. I might need you to sign a
14 so-ordered subpoena.

15 THE COURT: What about the detective?

16 MS. PARK: Detective Barbato is for Thursday.

17 THE COURT: Just give them to me and I will sign
18 them.

19 Okay.

20 (Whereupon, Senior Court Reporter Amalia Hudson
21 took over the proceedings.)
22
23
24
25

Joanne Fleming

1 THE COURT: Jurors, we moved along rather quickly
2 today, so there are no more witnesses to call at this time.
3 Tomorrow we are going to get started at the 10:00 in the
4 morning instead of 9:30.

5 Before I excuse you, I ask you to bear with me as I read
6 to you the required admonitions.

7 I ask you please do not talk either among yourselves or
8 with anyone else about anything related to the case. Please
9 continue to keep an open mind. Do not form or express an
10 opinion about the defendant's guilt or innocence until all
11 the evidence is in, I have given you my final instructions
12 on the law and I have directed you to begin your
13 deliberations.

14 Do not request, accept, agree to accept or discuss with
15 any person the receipt or acceptance of any payment or
16 benefit in return for supplying any information concerning
17 the trial. Report directly to me any incident within your
18 knowledge involving an attempt by any person improperly to
19 influence you or any member of the jury.

20 Do not visit or view the location where this incident
21 allegedly took place. Do not read, view, or listen to any
22 accounts or discussions of the case. Do not attempt to
23 research any facts, issues or law related to the case. Do
24 not communicate with anyone about the case by any means
25 including by telephone, text messages, e-mail, or the

Amalia Hudson, SCR

1 internet, and do not google or otherwise search for any
2 information about the case, or the law which applies to the
3 case, or the people involved in the case. I will see you
4 tomorrow at 10. Thank you.

5 (Jury exits)

6 THE COURT: People, would you say that we're on
7 schedule?

8 MS. PARK: Yes. I plan on resting on Thursday.

9 THE COURT: And at this time you do you expect your
10 client will testify?

11 MR. HERLICH: Yes, Your Honor.

12 THE COURT: Anybody else?

13 MR. HERLICH: No.

14 THE COURT: Okay. See you tomorrow at 10.

15 (Proceedings adjourned to 9-30-15)
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2

1 SUPREME COURT OF THE CITY OF NEW YORK

2 COUNTY OF NEW YORK PART 59

3
4 THE PEOPLE OF THE CITY OF NEW YORKIndict. No.
4258/2014

5 -VS-

6
7 LONNIE HARRELL, DEFENDANT

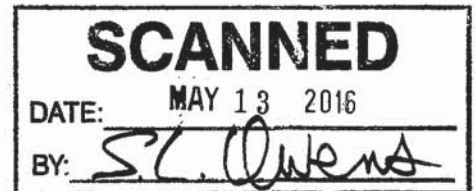
TRIAL CONT'D

8
9 September 30, 2015
10 100 Centre St
11 New York County

12 B E F O R E:

13 HONORABLE JUAN MERCHAN
14 JUSTICE OF THE SUPREME COURT

15 A P P E A R A N C E S:

16
17 (Same as previously noted)18
19
20 *****

21 THE CLERK: Continued case on trial, People v.

22 Lonnie Harrell.

23 COURT OFFICER: Panel entering.

24 THE CLERK: Case on trial, People v. Lonnie

25 Harrell. All parties are present. All jurors are present.

Amalia Hudson, SCR

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PARK - DIRECT - JEAN

1 THE COURT: Welcome back, jurors.

2 People call your next witness.

3 MS. PARK: The People call Alynka Jean.

4 COURT OFFICER: Witness entering.

5 Remand standing face the clerk raise your right hand.

6 THE CLERK: Do you solemnly swear or affirm the
7 evidence you shall give to the Court shall be the truth, the
8 whole truth and nothing but the truth?

9 THE WITNESS: Yes.

10 THE CLERK: Have a seat.

11 COURT OFFICER: State your full name spelling last
12 name.

13 THE WITNESS: Last name, Jean, J-E-A-N. First name
14 Alynka.

15 COURT OFFICER: County of residence?

16 THE WITNESS: Kings.

17 COURT OFFICER: Thank you.

18 THE COURT: Good morning.

19 You may inquire.

20 **DIRECT EXAMINATION**

21 **BY MS. PARK:**

22 Q Ms. Jean, by whom are you employed?

23 A The New York City Police Department.

24 Q What part of the Police Department are you employed?

25 A I work in the police laboratory.

Amalia Hudson, SCR

PARK - DIRECT - JEAN

1 Q What is your position there?

2 A I'm a Criminalist in the Latent Print Development Unit.

3 Q When you say you're a criminalist, are there different
4 levels of criminalist?

5 A Yes, there is levels one to four.

6 Q What level are you?

7 A Three.

8 Q Go through with us the different levels?

9 A A Level One Criminalist is an entry level position where
10 the criminalist comes in, they get training, and then they are
11 allowed to perform scientific analysis on evidentiary material
12 but under the supervision of a Senior Analysis, and Criminalist
13 Level Two is a Criminalist who can collect and perform scientific
14 analysis on evidentiary material without the supervision of a
15 senior analyst, and the Criminalist Level Three is a Criminalist
16 who can collect and perform evidentiary material -- I mean
17 analysis on evidentiary material. I'm sorry. They can collect
18 and perform scientific analysis on evidentiary material without
19 the supervisor of a Senior Analysis. They can perform training
20 on the Criminalist One and the Criminalist Twos, and they also
21 perform the duty a supervisor in the supervisor's absence. A
22 criminalist Level four is a supervisory position.

23 Q What kind of testing is done at the N.Y.P.D. lab?

24 A There are multiple scientific analysis such as control
25 substance analysis, trace evidence examination such as paint

Amalia Hudson, SCR

PARK - DIRECT - JEAN

1 analysis, tape comparison. There is question documents there is
2 latent print develop of firearm analysis.

3 Q Sorry. What was last one?

4 A Firearm analysis.

5 Q What do you mean by question documents?

6 A It's a document examination and handwriting examination.

7 Q Can you tell us some of your duties and responsibilities
8 as a Criminalist Level Three?

9 A As a Criminalist Level Three working in the Latent Print
10 Development Unit, my duties are to perform latent print analysis
11 and also to collect any trace evidence which can be collection of
12 any possible hairs, any possible glass chips, paint. Also any
13 possible -- to collect any possible DNA.

14 Q You mentioned Latent Print Unit. Can you just briefly
15 tell us what is latent print?

16 A What is a latent print?

17 Q Yes.

18 A A latent print is a fingerprint which is not visible to
19 the naked eye and requires chemical or physical means of
20 development in order for it to be visible.

21 Q Can you tell us just briefly your education and your
22 professional training or experience that lead to your present
23 position?

24 A I have a Bachelor's degree in forensic science from John
25 Jay College of Criminal Justice. I performed an internship with

Amalia Hudson, SCR

PARK - DIRECT - JEAN

1 the New York City Police Department Crime Scene Unit where part
2 of my duties were aiding detectives in dusting and lifting prints
3 and also collecting any trace evidence.

4 I received one year in-house training by New York City
5 Police Department in latent print development. I was trained by
6 the office of the Chief Medical Examiner in DNA collection. I
7 was trained by the New York City Police department in trace
8 evidence collect, and I have taken a number of training classes.
9 Many hosted by various places in the identification of
10 fingerprints, and as far as photography goes, I was trained by
11 the New York City Police Department in photography and also by
12 the Federal Bureau of Investigations.

13 Q And what is the relevance of photography training?

14 A If we see a -- if we develop a latent print we not lift
15 anything off the surface we take a photograph of it we -- we
16 photograph the laten print and that photograph is forwarded to
17 the Latent Print Section of the Department.

18 Q You mentioned as part of your duties you collect trace
19 evidence which may also be include DNA?

20 A Correct.

21 Q How do you do that?

22 A We take a sterile cotton swab similar to a Q-tip. We
23 take sterile water, and we place a couple of drops on the tip of
24 the cotton swab. We then take that swab, we brush it against the
25 surface in the desired area, and then we allow that swab to dry

Amalia Hudson, SCR

PARK - DIRECT - JEAN

1 and then it's packaged and sent off to the Office of the Chief
2 Medical Examiner.

3 Q When you do that, do you take precautions to not have
4 any contamination?

5 A Yes.

6 Q Can you explain that?

7 A For all of our work tools and for all of our equipment
8 and our lab bench we have to clean everything with 10 percent
9 bleach followed by 70 percent ethanol, and we wear sterile
10 gloves, sterile disposable gloves, disposal lab coat, a hairnet a
11 face mask.

12 Q And after each items of evidence have been analyzed or
13 swabbed, do you always have to clean your area before another --
14 before you start on a different case?

15 A Before and after, yes.

16 Q I am going to direct your attention to July 19, 2014,
17 were you work on that day?

18 A Yes.

19 Q Did you examine evidence in connection with a voucher
20 number 1000524781.

21 THE WITNESS: Judge, made, I look at my notes?

22 THE COURT: Sure.

23 (Witness reviewing paperwork)

24 A Can you repeat that?

25 Q 1000524781.

Amalia Hudson, SCR

A500

PARK - DIRECT - JEAN

1 A Yes.

2 Q And is that voucher number a unique number?

3 A Yes.

4 Q What evidence was contained in that voucher number?

5 A If was a straw, a broken drinking glass, and a cup like
6 a coffee cup.

7 Q How were the items packaged?

8 A The straw and the coffee cup, coffee-like cup was
9 packaged in a biological evidence bag. Looks like a brown paper
10 bag, and the broken class was packaged in a biological evidence
11 bag but with the -- within a cardboard box.

12 Q Were they in a sealed condition?

13 A Yes.

14 Q And were they packaged separately?

15 A Yes.

16 Q And what is the significance of having them packaged in
17 as you said a biological paper bag or biological box.

18 A The evidence -- I'm not sure exactly what your question
19 means, but the evidence has to breath, so we can't put it in
20 plastic to prevent any contamination and also to prevent
21 destruction of any possible DNA.

22 Q So those packaging may preserve the evidence?

23 A Correct.

24 Q I am going to show you People's Exhibit 15, 16, and 17.
25 They have been premarked for identification.

Amalia Hudson, SCR

PARK - DIRECT - JEAN

1 Do you recognize those three exhibits?

2 A Yes.

3 Q And that is -- let's take them one at time. What do you
4 recognize People's 15 to be, and if you need to cut it open, you
5 can do that.

6 Don't take it out of the bag. I just want you to look
7 inside?

8 A The cup the coffee-like cup.

9 Q That is People's 15.

10 A Yes.

11 Q What about People's 16?

12 A It is the purple straw.

13 Q And People's 17.

14 A Do you want me to open the glass. I mean the bag that
15 is in there?

16 Q No. I just want to know can you identify that it is?

17 A It's the broken pieces of glass.

18 Q How do you know that those are the items that is in
19 those bags?

20 A My initials are on each seal with the lab number.

21 Q And after you examined those items, did you seal them?

22 A Yes.

23 Q Did you -- do you know your seal with your initial?

24 A Yes.

25 Q And is that -- are those three exhibits are those in the

Amalia Hudson, SCR

PARK - DIRECT - JEAN

1 same condition today as it was from when you sealed them?

2 A Yes.

3 MS. PARK: Your Honor, I going to offer them
4 subject to connection?

5 THE COURT: Any objection?

6 MR. HERLICH: Subject to multiple connection,
7 Judge.

8 THE COURT: People's 15, 16 and 17 are accepted in
9 evidenced subject to connection.

10 Q Did you swab each of those items?

11 A Yes.

12 Q And I know you talked about it briefly but taking them
13 one at a time, let's start with People's 13 (SIC) a coffee cup.
14 Can you tell us how you swabbed that -- People's 15 and what
15 area?

16 A Of the cup?

17 Q Of the cup, Yes. People's 15?

18 A I took one swab from the mouth area but the rim portion
19 of the mouth area of the cup. When I say mouth area, there is a
20 lid on the cup, and there is a tab that is pulled back, so the
21 exposed area where someone's mouth would go to drink, and I also
22 took a swab from the tab that is pulled back, the edges of the
23 tab.

24 Q How many swabs did you use?

25 A Two.

Amalia Hudson, SCR

PARK - DIRECT - JEAN

1 Q So one for the tab and one or the rim?

2 A For the mouth area.

3 Q And what about People's 16?

4 A People's 16 is that the straw.

5 Q You can look at it?

6 A The top area of the straw where a person's mouth would
7 go to drink.

8 Q And People's 17, you mentioned that it was broken
9 glasses. Can you tell us the condition it was in when you opened
10 the box?

11 A It was in multiple pieces. I think 80. Approximately
12 80 piece were examined for latent prints. So there were broken
13 in many pieces. There's a portion of it that was the shards of
14 glass were too small for examination?

15 Q I am going to show you People's 17A marked for
16 identification. Do you recognize it?

17 THE COURT: What number is it again?

18 COURT OFFICER: 17A.

19 Q Do recognize People's 17A?

20 A Yes.

21 Q What do you recognize it to be?

22 A The shards of glass I examined.

23 Q And is that the shards of glass that you examined from
24 the Exhibit, People's 17?

25 A Yes.

Amalia Hudson, SCR

PARK - DIRECT - JEAN

1 Q And are those -- is that a photograph?

2 A Yes.

3 Q Did you take them?

4 A Yes.

5 Q Did they fairly and accurately show you when you took
6 the shards of glass out the box the way it appeared?

7 A Yes, minus the ones that I could not examine.

8 MS. PARK: Your Honor, I offer People's 17A in
9 evidence.

10 THE COURT: Any objection?

11 MR. HERLICH: Subject to connection.

12 THE COURT: Very well. 17A is in evidence subject
13 to connection.

14 Q What part -- did you swab that glass?

15 A Yes.

16 Q What part of the glass did you swab?

17 A The top rim portion.

18 Q And how did you determine that if the glass was broken?

19 A I looked at each piece of glass and the parts that had
20 the round, the edges I determine to be the rim of the glass.

21 Q I'm -- what did you do with the swabs?

22 A I packaged each one separately they are then voucher on
23 to a supplemental invoice, and then they are transferred to the
24 evidence control section of the laboratory.

25 Q When you say vouchered them, what does that mean?

Amalia Hudson, SCR

PARK - DIRECT - JEAN

1 A This means placing them on a unique invoice invoicing
2 the item of evidence.

3 Q I am going to show you what has been previously marked
4 for identification as People's 18.

5 (Handing)

6 Q Do you recognize People's 18?

7 A Yes.

8 Q What do you recognize them to be?

9 A The four swabs that I took in connection with this
10 voucher.

11 Q How do you know that those swabs are the ones that you
12 took?

13 A The label that I placed on them has a lab number and
14 then the description of the swabs that I previously state that I
15 took and also my initials on each of the seals.

16 Q How many envelopes are there for the swabs?

17 A Four.

18 Q So each swab gets it's own envelope?

19 A Yes.

20 Q And is that -- are they in the same condition today as
21 it was when you stole them?

22 A With the exception of three of them having an additional
23 seal, yes.

24 Q So which are you referring to the yellow tape?

25 A Yes.

Amalia Hudson, SCR

A506

PARK - DIRECT - JEAN

1 Q Other than the yellow tape, is it in the same condition?

2 A Yes.

3 MS. PARK: Judge, I am going to offer them subject
4 to connection.

5 THE COURT: You talking about 18?

6 MS. PARK: Eighteen, yes.

7 THE COURT: Any objection?

8 MR. HERLICH: Subject to connection.

9 THE COURT: It's in evidence subject to connection.

10 Q Can you tell us how you designated the swabs?

11 A Based on the lab number that the evidence is given when
12 the voucher is placed into our laboratory information management
13 system, it's given an item number. The swabs are given a subject
14 number from the item number, so if I have Item One the swab is
15 going to be Item 1.1. So the swabs in this case is swabs number
16 2.1, 3.1, 4.1, and 4.2.

17 Q Let's start with Item No. 2.1, what is that referring to
18 what swab is that?

19 A The swab from the top of the straw.

20 Q What about item 3.1?

21 THE COURT: That is from the rim of the broken
22 glass.

23 Q And 4.1?

24 A That is from the mouth area of the cup.

25 Q And 4.2?

Amalia Hudson, SCR

A507

HERLICH - CROSS - JEAN

1 A From the stab on the lid of the conduct.

2 Q So why does item No. 4 get 4.1 and 4.2?

3 A Because there are two separate swabs. So it's still
4 from the same item but you get .1 and .2 because there are two
5 separate swabs.

6 Q So if there was a third swab from that same item, it
7 would 4.3 for example?

8 A Correct.

9 Q And what happened to those envelopes after you seal
10 them?

11 A They were forwarded to the evidence control section the
12 laboratory.

13 Q Does your lab test it for DNA?

14 A No.

15 Q And where does it go from the evidence control?

16 A It gets triaged by the Office of Chief Medical Examiner
17 Liaison Unit, and they make a determination if it goes to the
18 Office of the Chief Medical examiner or the Property Clerk.

19 MS. PARK: I have no further questions.

20 THE COURT: Your witness.

21 **CROSS EXAMINATION**

22 **BY MR. HERLICH:**

23 Q With regard to the swabs that you used, Ms. Jean, are
24 they treated with any chemicals, or is it just cotton by itself
25 that is used to pick up any possible biological material on the

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HERLICH - CROSS - JEAN

1 specimen that you're examining?

2 A It's just the sterile cotton swab. No chemicals.

3 Q So the supplemental invoice that you're referring to in
4 your direct testimony, that pertains to the swabs that you
5 utilized in trying to gather evidence and that you put into four
6 separate envelopes, is that fair to say?

7 A Correct.

8 Q And where is your laboratory located?

9 A In Jamaica Queens.

10 Q And do you recall the date on which you received these
11 material for your examination?

12 THE WITNESS: Judge, made I look at my notes?

13 THE COURT: Sure.

14 A The date that I received it?

15 Q Yes?

16 A The date I personally received it?

17 Q Or your laboratory received it.

18 A I don't have the date that laboratory received it, but
19 the date that I did was July 19, 2014.

20 Q And the date that you performed the swabbing what was
21 that date?

22 A July 19, 2014.

23 Q Whatever paperwork you prepared was what prepared on
24 July 25 1:00 2014 regarding the fact that you did this work?

25 A No. It's dated July 19, 2014.

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HERLICH - CROSS - JEAN

1 Are you look at the report?

2 MS. PARK: Your Honor, I would like to show the
3 witness just two documents, Defendant's Exhibit C for the
4 purpose of identification.

5 THE COURT: Okay.

6 What are they?

7 MR. HERLICH: Laboratory reports I believe that
8 were prepared by the witness.

9 THE COURT: Okay.

10 (Hanging)

11 A Okay.

12 Q Does that refresh your recollection as to when you
13 prepared your report regarding the taking of the swabs?

14 A The taking of the swabs report goes on a supplemental
15 invoice which is dated 7/19/14.

16 Q So did you prepare any reports subsequently?

17 A Yes.

18 Q And the report that you prepared on July 25th did that
19 just memorialize the work you did with regard to the material you
20 received in this case pertaining to the property voucher that
21 were submitted to you?

22 A Yes.

23 MR. HERLICH: Nothing further, Your Honor.

24 THE COURT: Anything else from the People?

25 **REDIRECT EXAMINATION**

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HERLICH - CROSS - JEAN

1 **BY MS. PARK:**

2 Q Ms. Jean, when you are working on a case, are you
3 required to make any notes like handwritten notes as you go along
4 in your testing process?

5 A Yes.

6 Q And at the end when you complete your testing, do you
7 then prepare a formal type written report?

8 A Yes.

9 Q And do you do that based on -- do you also -- do you
10 review your notes as well as your independent recollection when
11 you prepare that report?

12 A Yes.

13 MS. PARK: I have knowing further.

14 THE COURT: Anything else?

15 MR. HERLICH: No.

16 THE COURT: Thank you. You may step down.

17 MS. PARK: Yes, Judge.

18 THE COURT: Jurors, The People and defense counsel
19 have entered into a stipulation. A stipulation is an
20 agreement that both parties enter into and negates the need
21 to call a witness to testify to whatever it is that has been
22 stipulated to. At this time I ask the prosecutor to please
23 read the stipulation into the record.

24 During your deliberation a stipulation is treated
25 exactly like any other evidence. You can request to see it.

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1 You can hold it. You can look at it. You can read it.

2 MS. PARK: "The parties stipulate that the cellular
3 telephone number (646)593-3203 belonged to Lonnie Harell, or
4 Harrell from July 15, 2014 through July 16, 2014."

5 THE COURT: We'll marked that was a Court Exhibit
6 what? One. That will be Court Exhibit 1.

7 Call your next witness, please.

8 MS. PARK: The People call Joseph Sierra.

9 (Witness enters)

10 COURT OFFICER: This way, please. Watch your step
11 going up. Please remain standing in front of the chair.
12 Raise your right hand.

13 THE CLERK: Do you solemnly swear or affirm the
14 evidence you shall give to the Court shall be the truth, the
15 whole truth, and nothing, but the truth?

16 THE WITNESS: I do.

17 THE CLERK: Have a seat.

18 COURT OFFICER: Please state your full name,
19 spelling your last name.

20 THE WITNESS: Joseph, J-O-S-E-P-H, Sierra,
21 S-I-E-R-R-A.

22 COURT OFFICER: County of residence.

23 THE WITNESS: Lehigh County, PA.

24 THE COURT: Good morning.

25 You may inquire.

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1 **DIRECT EXAMINATION**

2 **BY MS. PARK:**

3 Q Mr. Sierra, by whom are you employed?

4 A T-Mobile US.

5 Q What T-Mobile US.

6 A It's a telecommunications company.

7 Q What is your position there?

8 A I'm a Compliance Officer as well as a custodian of
9 records.

10 Q About how long you have been in that position?

11 A Five and a half years.

12 Q How long have you been working for T-Mobile?

13 A Five and a half years.

14 Q Can you describe your current duties and
15 responsibilities?

16 A As a compliance office, I respond to subpoenas, search
17 warrants, and court orders served upon T-Mobile. Due to my
18 clearance I also handle national security letters as well as
19 other classified information. As a custodian of records, I
20 handle testifying across the nation in trials entering in our
21 records as evidence.

22 Q Our records meaning what?

23 A T-Mobile telecommunication records or Metro PCS
24 telecommunication records.

25 Q Can you just briefly tell us your education and your

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1 professional experience that is relevant to your current
2 position?

3 A Criminal justice Bachelor's from Rutger's University
4 with computer science minor. For my Master's I have a computer
5 science and forensics from St. Joseph's University in PA.

6 Q PA meaning the state?

7 A PA the state.

8 The T-Mobile side basically training upon being hired
9 it's six months worth of training to understand the record
10 systems as well as how the network interacts with the cell phone
11 and the towers.

12 In addition to that every time that technology is
13 institutionalized within T-Mobile, I have to get recertified. So
14 within every year, I have a recertification on the information,
15 and whenever new technology is instituted, I also have to do it
16 again to learn that new information and how it interacts with the
17 tower.

18 So for example in 2013, we came out with HSPA Plus and
19 LTE, so I had to get certified three times that year.

20 Q I don't think we know what that means.

21 A HSPA Plus is a lower version of LTE. LTE is F
22 Generation Technology. Essentially it's just how fast and in
23 what way your cell phone uses a radio frequency wave to
24 connection to that tower.

25 Q Prior to coming to court today did you have an

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1 opportunity to review phone records for the two following
2 numbers?

3 A Yes.

4 Q (646)593-3203. Did you review those records?

5 A Yes.

6 Q Did you also review (646)206-2485?

7 A Yes.

8 Q Were they landline or cell phones?

9 A Both cell phones.

10 Q I am going to show you what has been previously marked
11 for identification as People's 10A, B, C and People's 23. Do you
12 recognize them?

13 A Yes. 10A, B and C are subscriber records, call detail
14 records, and a CD, and 23 are a CD.

15 Q So for People's -- let's take them one at a time 10A.
16 What is 10A?

17 A 10A is call detail records for number (646) 202 --
18 excuse me. 206-2485.

19 Q What about 10B?

20 A This is subscriber information for that same target
21 number.

22 Q 10C?

23 A A CD containing the call detail records cell site and
24 subscriber information for previously stated number.

25 Q What about People's 23?

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1 A This is subscriber -- excuse this is cell site
2 information for (646)593-3203.

3 Q And does T-Mobile make and keep records of phone calls
4 cell site records and subscriber information in the regular
5 course of it's business?

6 A Yes.

7 Q Is it the regular course of T-Mobile's business to
8 maintain those records?

9 A Yes.

10 Q Are the entries made on those records made at the time
11 that recorded transaction takes place or within a reasonable time
12 thereafter?

13 A Yes.

14 Q Is the person who makes the entry, reports the
15 information under a business duty to do so accurately?

16 A The information is recorded electronically, so yes.

17 MS. PARK: Judge, I offer People 10A, B, C and
18 People's 23 in evidence.

19 MR. HERLICH: No objection.

20 THE COURT: People's 10A, B, C and 23 are accepted
21 into evidence.

22 Q I want to start with People's 23, and you said that that
23 is a CD, correct?

24 A Correct.

25 Q Before -- prior to coming to court today, did you review

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1 what is contained in the CD?

2 A Yes, I did.

3 Q Do you see your initial on that CD?

4 A Yes, I do.

5 Q So I'm, showing you People's 23 and just for
6 clarification this has to do with the number -- phone number
7 ending in 3203, correct?

8 A That's correct.

9 Q And this contains what information?

10 A This has the call detail records which is the file
11 labeled 3203. The cell site information which is the third file
12 labeled 018 -- Excuse me -- 016378 Cell CDR, and the subscriber
13 information which is the 2014 file.

14 Q I am going to click on the call detail records. What
15 are call detail records?

16 A These are transaction logs of the communication that
17 were made from that cell phone to another party.

18 Q And you mentioned cell site records. What is cell site
19 records?

20 A Cell site records are an advanced form of call detail
21 records. They are essentially the same transaction log except
22 that it also includes the cell tower that was utilized at the
23 time of that transaction both at the beginning of the call and at
24 the end of the call.

25 MS. PARK: Just give my one second?

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1 (Pause in proceedings)

2 Q So I am going to scroll down to July 16, 2014 at
3 2:23:30 p.m. Do you see that Mr. Sierra?

4 A Yes, I do.

5 Q If you need to get closer with the Court's permission?

6 THE COURT: Of course.

7 Q So I would like to focus your attention to line 544
8 where it says 7/16/14 at 2:23:30 p.m. Can you just go across and
9 explain what each of the columns mean?

10 A Yes. Row A is going to the MSISDN. This is the
11 technical term for the phone number, and Column A it's always
12 going to be the target number for the records that we pulled
13 information on, and this is for 3203 as you can see also from the
14 file number.

15 Row -- excuse me. Column B is going to be the IMSI.
16 This is the international mobile subscriber identifier number.
17 This number is kind of like your Social Security number on the
18 T-Mobile network. This is the number that never changes
19 throughout your time with T-Mobile because of the fact that
20 because we are a GSM company which means we utilize a SIM card.

21 You can change your SIM card. You can change your
22 phone. You can change your phone number. You can change you
23 account, but one thing that's constant is the number which is the
24 MZ that always make sure we bill the right number. So this is
25 the number that is utilized when it communicates with the cell

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1 phone tower.

2 Column C is going to be the IMEI, the international
3 mobile equipment identifier. This is the serial number on the
4 back of your phone under the battery. This is the number that is
5 there.

6 The Column D is going to be the event time. This is
7 going to let us know whether it was a voice, an SMS, which is a
8 text message, the technical term for text message, standard
9 messaging, an MMS which is the multimedia service; that's a
10 picture, or video messages or data which can be pretty much
11 everything from sending an e-mail, downloading an app, watching
12 Netflix, facebook etc.

13 Q Before you move on, what is voice?

14 A Voice is a regular phone call.

15 Column E is going to be the date and time of the
16 transaction. Column F is going to the direction. This let's us
17 know whether this was an incoming or outgoing transaction.

18 Column G is going to be the number that was
19 communicating with this target. So Column G will always be the
20 other party included in the transaction. Column H is the TAC.
21 This is the Type Allocation Code. This just let's me know what
22 type of phone it is. This is the serial number in Column C, but
23 Column H let's me know that it's an iPhone 5 in this specific
24 example.

25 Following is switch informing. The switch is what

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1 routes the phone to the correct party. So in this specific
2 situation, the switch utilized was a New York switch which I can
3 see by the first three letters NYM, which is New York Metro, and
4 it was switch 306. At the end, Column K, is the duration
5 measured in seconds.

6 Q So when you see the New York does this mean this is in
7 New York time?

8 A Yes. Most of T-Mobile's records are -- time zone is
9 deciphered by the switch or the tower that it utilizes. In this
10 situation it is New York, so it's going to be eastern time.

11 Q You can have a seat, Mr. Sierra.

12 And here, the last records here shows a phone call at
13 7/16/14 at 2:42:42 p.m. outgoing call, the last line. Do you see
14 that?

15 A Yes, I do.

16 Q Can you tell us what is that means?

17 A Essentially that's last entry of the records so
18 depending on the date range let's us know if 2:42 was the last
19 phone call for that day, or if it was last phone calling for a
20 period of time.

21 Q And what was the end date -- what was the range of
22 records that was requested for this particular phone number, the
23 end date?

24 A I believe the end date was September 10, 2014. So that
25 means that for this record, there were no phone calls after 7/16

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1 up until 9/10/14.

2 Q If that number an ending in 2458, the record that is in
3 front of you, is being used, for example, someone is on that
4 phone -- I'm sorry. Let me withdraw that question?

5 A I apologize. Do you mean 2303.

6 Q Yes. Let me ask that after I go through the other
7 records.

8 I am going to turn your attention to People's 10A, B,
9 and C. I'm now going to ask you to turn your attention to
10 People's 10A, and what is People's 10A again?

11 A This is essentially the same call detail record except
12 for the number ending in 2485?

13 Q If you could look at the call detail records for number
14 ending in 2485, and I am going to focus your attention to
15 July 16, 2014 between 11:42:48 a.m. and 2:37:13 p.m. Do you see
16 that?

17 A Yes, I do.

18 Q The other records, the earlier records we saw, now
19 referring to People's 23, between 2:23:30 p.m. and 2:28:35 p.m.
20 there were 10 outgoing calls from the number ending in 3203 to
21 2485. Why is that -- why are those calls not reflected in the
22 call detail records for number ending 2485?

23 A Most likely because they went to voice mail. So one
24 record obviously would show the record because calls were being
25 made, but the record of the receiving party wouldn't show those

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1 calls being received on their record because of the fact that it
2 didn't technically go to their handset. It went to voice mail.

3 Q Can you explain call to 911. Are they reflected in call
4 detail records or cell site records?

5 A They can be.

6 Q What do you mean?

7 A Well, the main issue with 911 is that there are
8 different towers. Every phone company -- Well, let me phrase
9 that. Most phone companies like Verizon Sprint, AT&T have their
10 own cell phone towers that they utilize for their network.
11 Roaming occurs when you utilize another network work different
12 from your own.

13 Now, 911 is a little bit different. Due to FCC
14 regulations -- which is the Federal Communication Commission, I
15 believe, right? Yeah -- the FCC requires that any handsets
16 whether it has service or not has to be able to deal 911. So you
17 could technically not belong to any network but still have a cell
18 phone that is not being used dial 911, and be connected which is
19 one of the main reasons why there are 911 only towers to fill in
20 gaps where certain towers do not exist. So ever phone can dial
21 911.

22 So when you make a phone call. Your phone will connect
23 to, for example, if you have T-Mobile, the nearest T-Mobile
24 tower.

25 When you dial 911, it will connect to the nearest tower

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1 in general because again you have to be able to dial 911
2 regardless of network, phone, etc. So. If you call 911 and you
3 connect to a T-Mobile tower that is enabled with 911, it will
4 show on your record. If you call 911 and it goes to a 911 only
5 tower or a SPRINT, Verizon, AT&T 911 tower, it's not going to
6 show on the record.

7 Q You only maintain records if it hits T-Mobile's tower,
8 right?

9 A Yes. Cell site information only pulls information from
10 T-Mobile towers or the T-Mobile network.

11 Q Now, I want to review People's 10C and tell us again 10C
12 what does that contain?

13 A This contains cell site information for the number
14 ending in -- I just have to see the file. I forget the number.

15 (Witness reviewing exhibit displayed in court)4

16 Cell site informing for (646)206-2485.

17 Q Now, I want to focus your attention to Line No. 27. I
18 will bring that up. Do you see what I'm referring to, Line No.
19 27?

20 A Yes.

21 Q Using that line number, can you just go across the board
22 and explain what we are looking at?

23 A Actually if you don't mind going all the way to the top,
24 I need the column to identify the correct information.

25 Q Sure.

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1 A So these records are an expanded form of cell site
2 information. There are known as mediation records. This is a
3 new tool both T-Mobile and Metro PCS has utilized within the last
4 three months. It allows us to do a deeper search for a longer
5 period of time in our network. Previously, we were only able to
6 retain six months of cell site information. With this new tool,
7 we can go as far back as October of 2013.

8 So with this information it allows us to provide cell
9 site information for a longer period of time essentially, and it
10 allows us to obtain both connected information and non-connected
11 information within the record.

12 Q Can you explain what you mean by that?

13 A Yes. So there is two types of connections, network
14 connection and device connection. Network connection is when
15 your cell phone connects to the network to the tower and goes
16 to -- well I will have to explain.

17 With your cell phone it connects wireless from your cell
18 phone to the cell phone tower. Then from the antenna of the
19 cell phone tower it will go down to the base of that cell phone
20 tower to a routing antenna which will send through fiber optics
21 to a switch.

22 The switch is the routing system that tells us where the
23 phone call needs to go. So depending on the area code and the
24 phone number, it allow us to know which pathway it should travel.

25 Once it goes from the switch, it will go through the

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1 public telephone system. If it's a landline, it will continue on
2 the public telephone system to that landline. If it's a cell
3 phone, it will go a switch of that other parties company and from
4 there switch to cell phone tower to cell phone tower to the
5 recipient. Now, that is network connection.

6 Device connection is when the device actually receives
7 the information. So when you send a text message, in fact, you
8 it delivery it to that other party. That's device connection.
9 Network connection is just the actual travel through the network.

10 Now, the mediation records you have Column A, which is
11 the calling MDN. This is the number that placed the phone call.
12 Column B is the called MDN. This is the number that received the
13 phone call. The billing MDN in this situation will always show
14 the target number. It's very much like the MSISDN column in the
15 previous record. It just allows us to know which record were
16 pulled and for whom.

17 The destination number and dial number go hand in hand.
18 The destination number is the translated number. This is the
19 number that the network recognizes and will ultimately send the
20 information to. The dialed number is the number that was entered
21 into the handset.

22 So, for example, if you utilize speed dial on your cell
23 phone, in the dial number, say your home is entry No. 2. In the
24 dialed number, it will be just the 2, but in the destination
25 number it would be the full phone number for your home.

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1 The date, self explanatory. The time, in military time,
2 self explanatory. The time zone let's us know obviously whether
3 it's eastern time, Pacific time, etc. and it will adjust based on
4 the middle number so EST, Standard 5. EDT would essentially be
5 6. Time zone is going to let us know whether it is based off the
6 tower or the switch. So the reason we have this Column is
7 because your tower is obviously always going to local of where
8 you are. Because within the T-Mobile Metro PCS, we always try
9 to connect you with the nearest tower which is within a two mile
10 range because that the maximum range for a tower?

11 If it were to have an S, it would be the switch. Now,
12 the switch you can utilize any switch across the nation. So if
13 this had an S and it said in this Column IA, I would know that it
14 utilized a switch in Los Angeles, and that specific transaction
15 would be Pacific time and not eastern time.

16 Next column is duration. This is minutes and seconds.
17 Column K is going to be again a further explanation of the
18 direction of the call. One being incoming. Zero being outgoing.

19 The MSC is just letting me again know more information
20 about the switch. This is a 646 number. So I know it utilized a
21 New York switch. The IAC. Both CI and DC, this is engineering
22 information. This is just details about the cell phone tower,
23 and again going down this is going to be a lot more information
24 about the cell phone tower. Basically longitude and latitude of
25 where it's located, the address and specific details about the

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1 tower, and it goes on. This is just engineering reports.

2 Q You can have a seat.

3 Now, I would like to focus your attention to that call
4 at 4:20:50 hours on July 16, 2014, and that would be Line 27, and
5 you said that was in military time so 4:20:50?

6 A 2:20 p.m.

7 Q So can you explain that line to us, Line 27?

8 A Yes.

9 Q About what call?

10 A Essentially we have 3203 calling 2485 on 7/16 at 14:20,
11 2:20 p.m. utilizing a tower for a duration of zero seconds and
12 zero minutes.

13 Essentially this shows as I was talk about previously, a
14 network only connection. It didn't connect to the device. So it
15 would travel through the network but essentially never connected
16 to the device.

17 Q And what does had means?

18 A It means that the cell phone of 3203 called 2485, it
19 went through the network, but it never went to the device. So
20 essentially they made a phone call and probably on the first ring
21 hung up, and that is why there was no connection.

22 Q Now according to these -- you can have a seat, Mr.
23 Sierra.

24 According to these records People's 10C, the -- one
25 second. I'm sorry.

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1 (Pause in the proceedings)

2 Q Now according to the record in People 10C, it shows a
3 call on July 16, 2014 at 14:20:50 hours, which would be 2:20:50
4 p.m. from 3203 to phone number 2458, right?

5 A Correct.

6 Q Now according to the records People's Exhibit 23, and I
7 show them to you side by side -- Judge, may I have a minute?

8 THE COURT: Yes.

9 (Ms. Park conferring with defense counsel)

10 Q I am going to show you People's 23A --

11 MS. PARK: And Judge, I don't believe Mr. Herlich
12 will have an objection to this, but 23A is just a printout
13 from People's 23 which is already in evidence?

14 THE COURT: Is that correct?

15 MR. HERLICH: That's correct, Your Honor.

16 Q So I'm just going to put it up on the Elmo.

17 So just going back to People's 23, the call at 4:20:50
18 hours, I would like you to note that, and I will move to the
19 phone records for phone number ending 3203. Do you see the
20 highlighted area?

21 A Yes, I do.

22 Q Now, according to those records. That call at
23 2:20:50 p.m. is not reflected do you see that?

24 A Yes.

25 Q Can you explain that?

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1 A Yes. These record are call detail records the records
2 that we looked at on Excel are actually mediation cell site
3 records, so it's going to be more expanded in terms of the
4 information that was shown. So as stated previously this is
5 going to show device connection only while the other records show
6 both network connection and device connection.

7 Q Now, So I just want you to remember the 2:20:50 phone
8 call, and I going to put the cell site records from People's 23.

9 Now, I'm going to ask you to focus your attention again
10 to July 16, 2014 to lines between 70 and 71. That 2:20 p.m. call
11 is not reflected on these cell site records?

12 A That's correct.

13 Q This would be cell site records ending in 3203. So we
14 understand the call detail records, but why is it not reflected
15 in the cell site records?

16 A So essentially we are looking at the three different
17 types of records. We are looking at CDRs, call detail records,
18 which are just the transaction time. This is going to be cell
19 site information. This is going to include attempted and
20 connected transactions based on the cell tower that have a
21 duration. Mediation records, the cell site records we saw
22 essentially looking the same but a little bit different format.
23 That is going to be pretty much everything we have. So it's just
24 essentially the same record pulling different types of
25 information, the mediation record is a more complete record. So

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1 it's going to include both again network connected and device
2 connected records. In this situation this is not going show
3 anything with a 0.00 duration because it was not a device
4 connected transaction.

5 Now the mediation records again show everything, so it
6 will include even 0.00 duration records.

7 Q Now, I want to ask you about if the phone number ending
8 in 2485 was being used meaning someone was on the phone and
9 someone else was calling that number, would it go to voice mail,
10 or how does that work. Do you understand the question?

11 A Well, voice mail is initialized in three ways. One, the
12 handset is turned off. If your phone is turned off and someone
13 calls, you, it's going automatically to voice mail. The other
14 two ways is your device is powered on, but you either let the
15 phone ring until it's initiated and it kicks to voice mail, or
16 you actively ignore that call and hit decline in terms of
17 acceptance of the call.

18 So those three ways are the ways that a cell phone will
19 be connected to voice mail through a device.

20 Q I am going to ask you one last question about Exhibit
21 10C, and these are records ending in 2485, and I want you to
22 focus your attention to Lines 28 through 37. They would be calls
23 on July 16, 2014 from military time 14:23:30 to 14:28:35. Do you
24 see those?

25 A Yes.

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1 Q And can you tell by looking at these records whether
2 it's going to voice mail?

3 A Yes.

4 Q How?

5 A If you see these block of calls, you will notice
6 obviously these are all in the calling column is 3203. In the
7 call column actually. Yes, in the call column you see
8 (805)637-7249. This number is T-Mobile voice mail. So this
9 means they were connected to the voice mail system, but within
10 the billed MDN we see 2485. So essentially that means 3203
11 called 3485, but there were routed to voice mail, and we can see
12 that again here in the dialed and destination column. They
13 didn't actively dial that number, but what we do see here is that
14 it was connected to voice mail at all of these times, and we can
15 also tell by the duration you are only looking at few seconds per
16 one.

17 Q Just to clarify, you're saying that 3203 is dialing
18 number ending in 2485, is that right?

19 A Yes.

20 Q But it's going to voice mail, and you can tell by
21 looking at Column B the number that starts with 1805?

22 A Yes. Column B, D and E.

23 Q So you are not actually dialing that number 1805, is
24 that right?

25 A Correct. It's just the system routing to the voice

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1 mail. As we can we again A and C tell us what numbers are
2 communicating with each other, but because 2485 for whatever
3 reason of the three reasons I provided previously, connecting to
4 voice mail, it connected to voice mail.

5 Q And finally I am going to show you People's 10B and if
6 you can just explain to us what 10B in?

7 A Yes. This is subscriber information for (646)206-2458.

8 Q Can you just go down and explain what they are?

9 A Yes.

10 First row we have the building account number. This is
11 the overarching account number so if you have multiple numbers on
12 the same account, this is the number we would look it up to see
13 every number that you had on your account.

14 The building account status is opened. That means that
15 the account at the time of this report was still active. Now
16 bill accounting status can be open, suspended or canceled which
17 is going to be little bit different than MSISDN status, which I
18 get to in a second. MSISDN, M-S-I-S-D-N.

19 The billing account name is the owner of the account.
20 In this specific situation we have a Laketa, L-A-K-E-T-A Smith.
21 Next would be the date of birth. Next row Social Security
22 number. Next row is a company name if it was a business account.
23 We would provide the company name, but since it's a personal
24 device, it just utilizes the last name of the person. Next is
25 the address. You want me to read the address?

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1 Q No. That's okay?

2 A Telephone one and two are alternate contacts provided by
3 the user. It doesn't necessarily mean that it's a home phone or
4 in any way connected to the user. Minus, it's a way they get to
5 Laketa Smith. The MZ I explained previously. The mobile number
6 is the specific number that we search in this situation which is
7 2485. The mobile number name, this basically shows that Laketa
8 Smith is the owner of the account, and that this specific number
9 is registered to Laketa Smith.

10 Basically we include both because of the fact that say,
11 for example, your parent owns the account, if you want to assign
12 a name to the account for yourself, your parent can input that
13 information there. So that the account is going do Laketa Smith
14 and the mobile number name is designated to X, Y, Z Smith.

15 The date account established is the date that the number
16 was first utilized, 5/23/11. The MSISDN status is again can be
17 active, suspended, canceled, but it can differ from the billing
18 account because again the billing account is the overarching
19 account. While that can be opened this specific number, 2458
20 could be suspend or canceled. So it let's me know that status at
21 the time or of the report 2458 was in, which it was an active.
22 So it was an active account.

23 Disconnect time and date, not applicable because it is
24 active. So don't need that. Brand, TMUS let's us know it's
25 T-Mobile brand. Last refill date, unnecessary because it's a

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1 post paid account, which means that they paid monthly at the end
2 of the billing cycle as opposed to prepaid where they need to
3 refill on a monthly basis in order to be able to use the phone.
4 So since this is post paid, there is no need for a refill.

5 Reported indicator. That let's me know if this came
6 from another company. It's regular, so that means that this
7 number is native to T-Mobile, and it hasn't been ported out to
8 another company.

9 Q One last question. Are text messages maintained or
10 reflected in cell site records at T-Mobile?

11 A We do not keep text messages content, but it will show
12 in the record, and it will be identified as an SMS for a regular
13 text messages and MMS for a picture or video.

14 Q Are they picked up by cell towers?

15 A Yes.

16 MS. PARK: I have no further questions.

17 THE COURT: Any cross?

18 MR. HERLICH: Yes.

19 CROSS EXAMINATION**20 BY MR. HERLICH:**

21 Q Just so I have it straight, the call detail records will
22 not show calls that aren't successful in contacting a party that
23 was called, the phone that was called. Is that correct?

24 A Success is again in two different ways. Success in
25 traveling through the network is one, and success in terms of a

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1 person actually picking up the device or responded is another.
2 So call detail records if the -- let's see the easiest way to
3 explain it.

4 Call detail records will show attempted calls from the
5 target to another recipient, and incoming calls only if it's
6 another person trying to contact the target.

7 Q Let me get to the point which is I believe the records
8 that you've had an opportunity to review that are generated by
9 your company, when it came to the phone number ending 2485, the
10 records did indicate a call from, I believe it was 2:20 p.m. and
11 50 seconds on July 16, 2014, correct?

12 A Yes. That's going to be the cell site records. Not the
13 CDR.

14 Q Okay.

15 Now, there is no record in evidence with regard to the
16 cell phone ending in 3203 indicating that at 2:20:50 seconds on
17 July 16, 2014 that phone number called 3203, correct?

18 A Correct.

19 Q Can you account for that?

20 A Yes. Essentially again it's going to be based on the
21 type of records that were pulled. So in this situation we have
22 three different kinds of records that were pulled. You have
23 mediation cell site records, which is the full complete report,
24 which is network connection and device connection.

25 Q Let me interrupt if I may. Why weren't those records

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1 pulled for the number ending in 3203?

2 A Because at the time of the request that tool was not
3 made available. So the record were pulled in January 2015 for
4 3203. The records for 2485 were pulled about three, four weeks
5 ago.

6 Q So are you saying the technology didn't exist at the
7 time the records for 3203 were pulled?

8 A That is correct.

9 Q And since this new technology has come into being, there
10 was not a subsequent request for the complete records regarding
11 3203?

12 A That is correct?

13 MR. HERLICH: Nothing further.

14 MS. PARK: No. questions.

15 THE COURT: Thank you, sir. You can step down.

16 THE WITNESS: Thank you.

17 (Witness exits)

18 THE COURT: Okay, Jurors we are going to take our
19 morning recess. We'll break for about 10 or 15 minutes.
20 Please remember all of the instructions I have given you.
21 Thank you. You can step out.

22 (Jury exits)

23 THE COURT: Let's take a few minutes.

24 (Break in proceedings)

25 (Proceedings continued next page)

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1 THE CLERK: Case on trial, People versus Lonnie
2 Harrell.

3 MS. PARK: Judge, I just have a situation that I
4 need to bring up to the Court's attention.

5 THE COURT: Okay.

6 MS. PARK: I have the doctor and another police
7 officer lined up for this afternoon. So the doctor was
8 going to take a significant portion of this afternoon, but
9 she just texted me and said that she has a stomach virus and
10 it would be very difficult for her to come to court today
11 and wanted to know if she can come tomorrow. I originally
12 planned to rest yesterday -- tomorrow morning. I can still
13 rest my case tomorrow afternoon and I'm just wondering if --

14 THE COURT: So who else would you have today,
15 then?

16 MS. PARK: I have two more witnesses this morning.

17 THE COURT: And one this afternoon?

18 MS. PARK: And one who was supposed to be here at
19 three. I'm trying to see if he can come here at
20 two-fifteen. But he's -- his testimony is really going to
21 be about five minutes. He's someone who took the rape kit
22 from the hospital to another officer who vouchered it.
23 That's it.

24 I mean -- and I spoke to -- she got off work at
25 three o'clock last night and she seemed to be okay and now

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1 --

2 THE COURT: Alright, well, if she can't be here,
3 she can't be here. I'm just wondering if I -- if we should
4 just wrap it up this morning.

5 Can you have this other witness come back
6 tomorrow? I don't want the jury to have to come back in the
7 afternoon.

8 MS. PARK: Yes, I understand. I will have him
9 here tomorrow.

10 THE COURT: Okay.

11 MS. PARK: I apologize, Judge.

12 THE COURT: It's okay, it happens.

13 You expect we will be done with these two other
14 witnesses this morning?

15 MS. PARK: Yes.

16 THE COURT: And you won't have a problem getting
17 the second witness?

18 MS. PARK: The officer?

19 THE COURT: Yes.

20 MS. PARK: I mean, I will get him.

21 THE COURT: Okay.

22 A COURT OFFICER: One in.

23 (Whereupon, the defendant entered the courtroom.)

24 THE COURT: I will tell the jurors what the
25 scheduling is now so they can plan accordingly.

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1 MS. PARK: Thank you.

2 THE COURT: Tomorrow I should tell them to come
3 back what time, nine-thirty?

4 MS. PARK: Any time, Judge.

5 THE COURT: Okay, I will tell them nine-thirty.

6 A COURT OFFICER: Panel entering.

7 (Whereupon, the jury entered the courtroom.)

8 THE CLERK: Continuing case on trial, People
9 versus Lonnie Harrell.

10 All parties and all jurors are present.

11 THE COURT: Okay, jurors, before we continue with
12 the next witness, I just want to talk to you about some
13 scheduling. I think I have good news and good news.

14 The good news is, due to witness scheduling
15 problems, there will be no proceedings this afternoon. So,
16 we're going to go as far as we need to go this morning,
17 which I think will be around one o'clock, and then we will
18 call it a day.

19 The good news, I'm assured that we're actually
20 ahead of schedule despite not working this afternoon and
21 starting later this morning. And we're ahead of schedule.
22 You don't need to concern yourselves that we're going to go
23 beyond the estimated time frame, okay?

24 People, next witness.

25 MS. PARK: The People call Tanya Devulpillieres.

1 A COURT OFFICER: Witness entering.

2 (Whereupon, the witness entered the courtroom.)

3 A COURT OFFICER: Remain standing, raise your
4 right hand and face the clerk.

5 T A N Y A D E V U L P I L L I E R E S, called as a witness,
6 by and on behalf of the People at the Trial, having been
7 duly sworn or affirmed, testified as follows:

8 THE CLERK: Thank you.

9 A COURT OFFICER: Please be seated.

10 In a loud, clear voice, please state your name,
11 spelling your last name.

12 THE WITNESS: Tanya Devulpillieres,
13 D-E-V-U-L-P-I-L-L-I-E-R-E-S.

14 A COURT OFFICER: County of residence?

15 THE WITNESS: Kings County.

16 A COURT OFFICER: Thank you.

17 THE COURT: Okay, good afternoon.

18 You may inquire.

19 DIRECT EXAMINATION

20 BY MS. PARK:

21 Q Ms. Devulpillieres, by whom are you employed?

22 A By the New York County District Attorney's Office.

23 Q What is your position there?

24 A I am a senior cell site analyst.

25 Q What department of the District Attorney's Office do

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1 you work for?

2 A I work in the High Technology Analysis Unit.

3 Q And can you tell us some of the things that happens at
4 the High Technology Analysis Unit?

5 A Yes. Generally we handle electronic devices. So
6 there is a group that works with computer forensics, there is a
7 group that works with phone records and my group works with
8 cell phone records.

9 Q How long have you held your current position?

10 A Since February 2009.

11 Q Can you tell us, just briefly, your educational
12 background, any relevant experience that led to your current
13 position?

14 A I graduated from the University of Illinois in
15 Champaign, Illinois, and then I spent four years working as an
16 analyst in the Organized Crime Anti-terrorism Unit at the U.S.
17 Attorney's Office where I worked phone records, cell phone
18 records and mostly wiretaps, which sort of led me to my current
19 position which is working specifically with cell phone
20 recording and looking up cell phone records.

21 Q Can you tell us about any training that you may have?

22 A Yes. I have received about sixty-two hours of
23 training in the mapping software that I use through the
24 manufacturer of that software, which is ESRI, Environmental
25 Systems Research Institute, and I've received training in the

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